

in each proceeding. The Presiding Administrative Judge or the examiner has power to:

- (a) Rule upon motions and request;
- (b) Adjourn the hearing from time to time and change the time and place of hearing;
- (c) Administer oaths and affirmations and take affidavits;
- (d) Receive evidence;
- (e) Order the taking of depositions;
- (f) Admit or exclude evidence;
- (g) Hear oral argument on facts or law;
- (h) Consolidate appeals filed by two or more appellants; and
- (i) Do all acts and take all measures necessary for the maintenance of order at the hearing and the efficient conduct of the proceeding.

In cases considered by the Board under §24.4(b), (c), and (d) the Chair is hereby delegated authority to request subpoenas pursuant to 5 U.S.C. 304.

§24.4 Jurisdiction.

(a) *Contract Disputes Act.* Pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601-613), the Board shall consider and determine appeals from decisions of contracting officers relating to contracts entered into on or after March 1, 1979, and, at the contractor's election, contracts entered into prior to March 1, 1979, with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter. For purposes of this paragraph (a) the term "contracts" shall mean express or implied contracts made by the Department of Agriculture, agencies of the Department, or by any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal, for:

- (1) The procurement of property, other than real property in being;
 - (2) The procurement of services;
 - (3) The procurement of construction, alternation, repair, or maintenance of real property; or
 - (4) The disposal of personal property.
- (b) *Federal Crop Insurance Corporation.* The Board shall have jurisdiction of appeals of final administrative determinations of the Corporation pertaining to standard reinsurance agreements under 7 CFR 400.169(d). Decisions

of the Board shall be final within the Corporation and the Department.

(c) *Suspension and debarment.* (1) The Board shall have jurisdiction to hear and determine the issue of suspension or debarment, and the period thereof, on an appeal by a person suspended or debarred by:

(i) An authorized official of the Department of Agriculture under 48 CFR 409.470; or

(ii) An authorized official of the Commodity Credit Corporation under 7 CFR part 1407.

(2) In addition, the Board shall have jurisdiction to hear and determine the issue of debarment, and the period thereof, on an appeal by a timber purchaser debarred by an authorized official of the Forest Service under 36 CFR 223.138.

(3) Decisions of the Board shall be final within the Department.

(d) *Contract Work Hours and Safety Standards Act.* The Board shall have jurisdiction to act for the head of the agency in appeals of the administrative determinations of liquidated damages under the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), 40 U.S.C. 330.

§24.5 Time for filing notice of appeal.

A notice of appeal under §24.4(a), (c)(1)(i), or (c)(1)(ii) shall be filed within 90 days from the date of receipt of a contracting officer's or suspending or debarring official's decision. A notice of appeal under §24.4(b) shall be filed within 90 days from the date of receipt of the Corporation's final determination. A notice of appeal under §24.4(c)(2) shall be filed within 30 days from the date of receipt of the debarring official's decision. A notice of appeal under §24.4(d) shall be filed within 60 days from the date of withholding of liquidated damages. The time for filing a notice of appeal shall not be extended by the Board.

§24.6 Board location and address.

The Board of Contract Appeals is located in Washington, DC. All correspondence and all documents to be filed with the Board should be addressed to the Board of Contract Appeals, United States Department of Agriculture, Washington, DC 20250-0600.

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The Board's telephone number is 202-720-7023; the Board's facsimile number is 202-720-3059.

§24.7 Public information.

(a) The records of the Board are open to the public for inspection and copying at the Office of the Board. Decisions and rulings of the Board shall be published from time to time and copies made available to the public upon request at cost of duplication except that the Board shall, in its discretion, have authority to make copies of decisions and rulings available at no charge in accordance with Department policy, appendix A to 7 CFR part 1, subpart A. Hearings before the Board shall be open to the public.

(b) Information that is to be made available for public inspection and copying under provisions of 5 U.S.C. 552(a)(2) and 7 CFR 1.5 may be obtained at the office of the Board. The address of the Board is set forth in §24.6. Except for such information as is generally available to the public, requests should be in writing and submitted in accordance with 7 CFR 1.6 and paragraphs (c) and (d) of this §24.7.

(c) Facilities for copying are available at the office of the Board.

(d) Facilities for inspection and copying are available during established office hours for the Board, usually 8:30 a.m. to 5:00 p.m. Monday through Friday. The Department of Agriculture has established a schedule of fees for copies of information. The Board charges for copies of records in accordance with the Department fee schedule, appendix A to 7 CFR part 1, subpart A.

(e) The Vice Chair is authorized to receive requests for records submitted in accordance with 7 CFR 1.6(a), and to make determinations regarding whether to grant or deny requests for records exempt from mandatory disclosure under the provisions of 5 U.S.C. 552(b). This official is authorized to

(1) Extend the ten-day administrative deadline for reply pursuant to 7 CFR 1.14,

(2) Make discretionary releases pursuant to 7 CFR 1.17(b) of records except from mandatory disclosure, and

(3) Make determinations regarding the charging of fees.

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(f) Appeals from denials of request submitted under paragraph (e) of this section shall be submitted in accordance with 7 CFR 1.6(e) to the Chair, Board of Contract Appeals, United States Department of Agriculture, Washington, DC 20250-0600. The Chair shall determine whether to grant or deny the appeal and shall also make all necessary determinations relating to an extension of the twenty-day administrative deadline for reply pursuant to 7 CFR 1.14, discretionary release pursuant to 7 CFR 1.17(b) of records exempt from mandatory disclosure under 5 U.S.C. 552(b), and the charging of appropriate fees.

§24.8 Rules of procedure.

The Chair of the Board shall prescribe its Rules of Procedure and publish such Rules in subpart B of this part 24 and may prescribe and so publish amendments from time to time. The Rules of Procedure and any amendments thereto shall be consistent with this subpart.

§24.9 Definitions.

Board means the Board of Contract Appeals established under this subpart.

Contract means any agreement entered into by the Department or its agencies or authorized officials with any person having the legal effect of a contract between the Department and such person.

Contracting officer means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto and includes the authorized representative of the contracting officer, acting within the limits of his/her authority.

Days means calendar days. Except as otherwise provided by law, in computing any period of time prescribed by the rules in this part or any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which even the period shall run to the end of the next business day. If mailing is required, the